

January 12, 2011

Gale Mattison  
Chairman  
State Contracting Standards Board  
State Office Building, Room 173  
165 Capitol Avenue  
Hartford, CT 06106

Re: DOT draft cost analysis

Dear Mr. Mattison:

We have read and reviewed the report submitted to the Board by the Department of Transportation and we have the following concerns and questions:

The main question a cost benefit analysis should seek to answer is “What is the most effective way to provide these governmental functions?” However, this report doesn’t attempt to answer that question as much as try to justify the status quo.

Throughout the report there are fears expressed that bringing work in house in would affect the Department of Transportation’s flexibility to staff inspections in emergencies. While we understand the political and market forces at work which have hindered the Department’s ability to hire state engineers, we think the report “doth protest too much” and that this may have led the authors to use a methodology that adds irrelevant and unreal costs on the state side. At the same time, the real projected costs of consultant payroll, overhead and profit has been underestimated.

First, on the spreadsheets labeled Attachment A and Attachment B, the payroll is derived from comparing existing state positions. The existing workforce is older. Bridge Safety Inspectors are usually hired at step one. Also, of 24 positions, why is the state calling for only 5 Bridge Safety Inspectors and perpetuating a top heavy structure? Does the Department intend to use Technical Engineers (TE2s) to do railroad bridge inspections in the future?

Second, the state fringes and additives rate being used is not the normal cost of state fringe benefits but a figure used to allocate costs to projects. Section 16(b) of the Clean Contracting Standards law states that costs included in a cost benefit analysis means “the normal cost of fringe benefits, as calculated by the Comptroller.” This figure of 39.85% includes the unfunded liability of the pension and the health insurance costs of current retirees. These are not actual costs to the state of a new employee’s retirement benefit. Current costs for the TierIIA pension plan cost less than five percent (4.7%) of payroll. Likewise, the DOT leave and longevity additives do not add to an employee’s pay or to the state’s costs, but the DOT is using this 22.46% figure to subtract 427 hours off of the projected state employees’ hours each year.

Third, we question the inclusion of “additional costs for training, equipment and supplies” and would like more clarity on why these have been added. Other direct costs are, for the most part, a wash. Both consultants and state employees participate in the same FHWA trainings. Both the

Office of Rails and the Bridge Safety unit utilize the Highway Bridge Inspection Manual. Both lease equipment. With the Department down 81 engineering positions since the early retirements of 2009-2010, we believe there should be plenty of computers, desks and phones available for any new hires. **All costs should be accounted for in direct costs which are considered equal for the state and consultant side.**

Fourth, and significantly, the Office of Policy and Management has added in a figure of 26.6% for indirect costs, applied solely to the state payroll. When the DOT originally responded to union analyses of consultant engineering costs in 1990, they applied the same rationale as in this 2010 analysis; all indirect costs were assigned to the state engineers only. In response, CSEA/SEIU Local 2001 retained a Connecticut professional accounting firm, with an extensive practice in government auditing, for an opinion of best practices in such an analysis. The CPA firm of Kostin, Ruffkess & Co. reported in September 1992 that DOT's methodology was incorrect. They stated that *"overhead costs (here they are referring to state 'indirect costs') should be allocated to a base which represents the total direct costs of the total activity of the organization. The total direct costs of this organization [CDOT] includes the cost of state employees as well as the cost of consultants...this will result in a much more accurate picture of the costs of using consultants versus state employees."* At the request of Commissioner Emil Frankel, DOT did a thorough cost benefit analysis in 1994. They utilized four different accounting methods to analyze indirect costs, none of which was the method utilized in this 2010 report.

**Fifth,** moving to the consultant side of the spreadsheets, how exactly, was the consultant payroll figure of \$942,549.43 reached? We looked at two two-year contracts for railroad bridge inspections. Their maximum limiting amounts total over \$5 million, not counting extra work. Payroll costs are more than \$1.5 million. However, DOT in this study used 2010 invoices. In the supplemental data, (B) there are no invoices listed for the two firms hired to do railroad inspections. A comparison of the actual hourly rates listed in one mast arm contract awarded to Baker Engineering shows the rates are near or above the hourly rate utilized in DOT's study of equivalent state titles. This calls into question the assumption that base salaries for state engineers to do the work is 145% more in RR bridge inspection and 150% more for mast arm inspections.

Sixth, we have questions as to how the consultant Burden, Fringe and Overhead figure was reached. Was this based on the actual billings of four expired contracts? The report does assume some projected increases on the state side so why not on the consultant side? When it comes to consultant costs, the BFOs have changed dramatically since 2006 and should be taken into account.

Four years ago an inspection firm working out of a **state supplied** trailer could have a BFO of 125.79%, the rate listed here for RR bridge inspections. According to the 2010 BFOs submitted to the Contract Standards Board, the lowest BFO submitted by Purcell Associates is 138.42% and the highest requested by WP Sells is 171.01%. As reported by Tom Harley at the September meeting of the Board, there is no longer a state cap on what BFO % a company can submit. If the 2010 rates are approved, the average BFO of the railroad bridge contracts will be 154.7% not 125.79% and the average for the mast arms contracts will be 151.24% not 149.80 %.

Seventh, if the payroll amount and the BFO percentages are underestimated then the fixed fee for profit is also underestimated. If we used equal payroll figures, which is still low on the consultant side, and applied the updated BFO of 155%, the fee for profit on the railroad bridge inspections increases to \$344,289. Using these updated figures, would mean a savings of at least 50% if these inspections were done in-house. More information is needed to come up with a more accurate payroll and the actual cost of the state's pension benefit should be utilized. When this is done, much greater savings will be shown for both types of inspections.

In their "Additional Issues" portion of the report, the DOT repeats concerns that adequate resources will not be available in emergency situations or for certain bridges if the state contracted in this work. This needs to be explained further. As this particular analysis deals with scheduled inspections these are not "unanticipated". The Department already has a program for dealing with weather related additional inspections. The contracts standards law contains adequate provisions for emergency situations and situations where the state lacks technical expertise.

However, bridge safety inspections are core governmental functions that never should have been contracted out in the first place. The law also states that "In no such case shall the insufficient staffing of a state contracting agency constitute a significant policy reason to approve a business case for a privatization contract to provide a core governmental function."

Finally, we find it interesting that in order to contract out this work, state employees have to be at least 10% more costly than the private consultants. It is our belief that the 10.2% cost attributed to the state workforce for the railroad bridge inspections was the number DOT started with to justify contracting out these core governmental services. They then backed their numbers into it.

We welcome an opportunity to come to a meeting of the Board to discuss these issues further.

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CSEA, SEIU Local 2001